

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
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PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

| | | | |
|--|--|--|--|
| Applicant's or agent's file reference 81338-4501 | | Date of mailing (day/month/year) 12 APR 2005 FOR FURTHER ACTION See paragraph 2 below | |
| International application No. | International filing date (day/month/year) | Priority date (day/month/year) 10 April 2003 (10.04.2003) | |
| International Patent Classification (IPC) or both national classification and IPC IPC(7): A44C 09/02 and US Cl.: 63/3 | | | |
| Applicant KRETCHMER, STEVEN | | | |

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Box No. I Basis of the opinion |
| <input type="checkbox"/> | <input type="checkbox"/> | Box No. II Priority |
| <input type="checkbox"/> | <input type="checkbox"/> | Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | <input type="checkbox"/> | Box No. IV Lack of unity of invention |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | <input type="checkbox"/> | Box No. VI Certain documents cited |
| <input type="checkbox"/> | <input type="checkbox"/> | Box No. VII Certain defects in the international application |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Box No. VIII Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(h) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

| | |
|---|--|
| Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P O Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230 | Authorized officer Jack W. Lavinder Telephone No. 703-308-1134  |
|---|--|

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INTERNATIONAL SEARCHING AUTHORITY

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PCT/US04/10986

10/552535

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- a sequence listing
 table(s) related to the sequence listing

b. format of material

- in written format
 in computer readable form

c. time of filing/furnishing

- contained in international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.

3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|---|-----|
| Novelty (N) | Claims <u>12-19, 33, 34, 36, 37</u> | YES |
| | Claims <u>1-11, 20-29, 30-32, 35, 38-40</u> | NO |
| Inventive step (IS) | Claims <u>12-19, 33, 34, 36, 37</u> | YES |
| | Claims <u>1-11, 20-29, 30-32, 35, 38-40</u> | NO |
| Industrial applicability (IA) | Claims <u>1-40</u> | YES |
| | Claims <u>NONE</u> | NO |

2. Citations and explanations:

Please See Continuation Sheet

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claims 12-19 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 12-19 are indefinite for the following reason(s): the independent claim, claim 1, from which claims 12-19 depends, sets forth an alternative set of limitations, i.e., the claim can cover "a" or "b". In order for the dependent claims to be considered definite and well defined, the dependent claims must make sense with either of the two alternative limitations. In this case, alternative limitation "a" claims that the first and second magnetized portions have polarity opposite one another in order for them to be attracted to one another. Dependent claims 12-19 claim the opposite, i.e., the polarity of the first and second components are the same and therefore repel one another. This renders the scope of the claim to be indefinite because it is not clear whether or not the portions are attracted or repel one another.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V. 2. Citations and Explanations:

Claims 1-6, 8-11, 20-29, 30-32, 35, 38-40 lack novelty under PCT Article 33(2) as being anticipated by Di Croce, 3263444.

Regarding claims 1-6, 8-11, 20-29, 30-32, 35, 38-40, Di Croce discloses a finger ring having a multitude of ring sections (col. 2, lines 12-15), each with magnetic female or male connecting ends (recesses and protrusions, figure 3, col. 3, lines 3-7). The connecting ends can be viewed as being either male, i.e., protrusions, or female, i.e., recesses. The finger ring via the connections at the ends of each section permits a slit separation and axial expansion of the ring sections (col. 2, last three lines) to slightly enlarge the ring size (col. 1, lines 64-67) while not releasing the segments from one another.

Di Croce also discloses a first ring section (3) having a magnetized portion (pellet portion 14) with a female element (recesses in the end face of the pellet portion) associated therewith for magnetically attracting and receiving a male element (protrusions on the identically shaped magnetic pellet portion 14) located in the end portion of another ring section (4).

Di Croce further discloses ring segments having either a magnetic female (recesses) or male element (protrusions) located on opposite ends of the ring section for magnetically attracting the magnetic male or female element of a second or another ring section. The recesses and protrusions allow for different positional relationships, i.e., the protrusions can be entirely engaged in the recesses or anywhere from fully engaged to disengaged (col. 1, lines 64-67).

Di Croce discloses the end portion of the ring section being tubular for receiving the magnetic pellet (14, figure 3).

Di Croce discloses a ring comprising a plurality of jewelry-forming components (2, 3) and a plurality of arcuate components (2, col. 2, lines 12-15) having first and second male ends, i.e., protrusions in the end portion of magnetic pellet 14 on each end of the arcuate ring segment (4) dimensioned to receive and magnetically retain the female elements of adjacent jewelry forming components.

Di Croce discloses that the ring can be made up of two or more segments (col. 2, lines 12-15).

Di Croce discloses a functional part, i.e., any side of any of the ring segments can be considered a functional part for opening and closing the continuous configuration.

Di Croce also discloses inner faces of two jewelry components that are magnetically coupled in a face-to-face relation, i.e., the protrusions and recesses are considered the inner faces of the jewelry components.

Claim 7 lacks an inventive step under PCT Article 33(3) as being obvious over Di Croce in view of Siebenberg, 6,116,053.

Regarding claim 7, Di Croce is applied as set forth in the above rejections. However, Di Croce fails to disclose a ring segment being fully tubular throughout its arcuate length. Di Croce only discloses the end portions of the ring segments being tubular.

Siebenberg discloses a ring being made from a tubular member (10, figures 5, 6, 8) in order to make the rings more affordable and comfortable (col. 1, lines 40-47, col. 1, lines 49-60).

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In case the space in any of the preceding boxes is not sufficient.

It would have been obvious to a person having ordinary skill in the art to make Di Croce's ring segments from a tubular member, as taught by Siebenberg, in order to make the ring lighter, more comfortable and more affordable.

Claims 12-19, 33, 34, 36, 37 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the claimed invention.

Regarding claims 12-19, none of the prior art references discloses two jewelry forming component that are connected to one another and at the same time magnetically repel one another.

Regarding claims 33 and 34, none of the references disclose an outer surface with a flat portion so that the members can also be magnetically coupled by contact of the flat portions.

Regarding claims 36 and 37, none of the references disclose an interlocked chain made from a plurality of magnetically connected continuous loops.

Claims 1-40 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.